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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1946

No. 432

AETNA CASUALTY & SURETY COMPANY AND
J. A. JONES CONSTRUCTION COMPANY,
Petitioners,

vs.

MRS. FANNIE M. FLOWERS

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT, AND BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI.

CLYDE W. KEY,
Counsel for Petitioners.

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Petitioners,

vs.

MRS. FANNIE M. FLOWERS

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT.

To the Honorable the Chief Justice and Associate Justices of the Supreme Court of the United States:

Petitioners Aetna Casualty & Surety Company and J. A. Jones Construction Company respectfully show:

That they are greatly aggrieved by the final judgment of the United States Circuit Court of Appeals for the Sixth Circuit entered in this cause on April 17, 1946 (Petition for rehearing denied June 17, 1946), by which said Circuit Court of Appeals ordered this cause remanded to the State

Court for trial, and that said judgment is erroneous in the particulars hereinafter pointed out.

I

Summary Statement of Matters Involved

This suit originated in the Chancery Court of Hawkins County, Tennessee. Respondent, suing in behalf of herself and her minor children, seeks a recovery under the Tennessee Workmen's Compensation Act, for the death of her husband. If her husband's death is compensable, she would be entitled to recover the maximum of $5000.00, though less than $3000.00 had accrued at the time suit was instituted. Alleging diversity of citizenship, petitioners removed the case to the United States District Court, where it was dismissed on a question of venue. Respondent appealed to the United States Circuit Court of Appeals, and that Court held that the "matter in controversy" did not exceed $3000.00, and therefore the District Court was without jurisdiction. Since the maximum rate of compensation is $18.00 per week, and since suit must be filed within one year, the effect of the holding is that the Federal District Court can never acquire jurisdiction of a Tennessee Workmen's Compensation suit.

II

Jurisdiction

The jurisdiction of this Court is invoked under the Acts of March 3, 1891, c. 517, sec. 6, 26 Stat., 824; March 3, 1911, c. 231, sec. 240, 36 Stat., 1157; Feb. 13, 1925, c. 229, sec. 1, 43 Stat., 938. (28 U. S. C., Sec. 347.) Jurisdiction of this Court to review upon certiorari a judgment of the Circuit Court of Appeals ordering a remand to the State Court was upheld in *Gay* v. *Ruff*, 292 U. S. 25.

III

The Question Presented

The sole question involved is this: In view of the requirement of 28 U. S. C. 71, that, in order to be removable, a cause must involve in excess of $3000.00, and in the light of the uniform construction placed upon the Tennessee Workmen's Compensation Act by the Court of last resort of Tennessee that only one suit shall be necessary to adjudicate the *entire* rights and liabilities of the parties, is a suit under the Act removable where the ultimate liability exceeds $3000.00, but the installments accrued at the time of institution of the suit are less than that amount?

IV

Reasons Relied On For the Allowance of the Writ

1. The decision sought to be reviewed is in conflict with the decisions of this Court with respect to the jurisdiction of the United States Courts, in the cases of *Thompson* v. *Thompson,* 226 U. S. 551; *Brotherhood of Locomotive Firemen & Enginemen* v. *Pinkerton,* 293 U. S. 98, and *Schunk* v. *Moline, etc., Company,* 147 U. S. 499.

2. Numerous Workmen's Compensation cases are now pending in the Federal District Courts in Tennessee, some originally instituted therein and some removed thereto. These Courts have uniformly taken jurisdiction of these cases since the adoption of the Workmen's Compensation Act in 1919. It is important to the orderly administration of justice that the question of the jurisdiction of these Courts over such suits be settled by this Court.

3. The construction placed by the Circuit Court of Appeals upon the Tennessee Workmen's Compensation Act is

in conflict with the decisions of the Supreme Court of Tennessee.

V

Prayer

WHEREFORE, your petitioners pray that a writ of certiorari issue out of and under the seal of this Court, directed to the United States Circuit Court of Appeals for the Sixth Circuit, commanding said Court to certify and transmit to this Court a full and complete transcript of the record and of the proceedings of said United States Circuit Court of Appeals for the Sixth Circuit had in the cause numbered and entitled on its Docket, No. 10200, *Mrs. Fannie M. Flowers, Appellant,* v. *Aetna Casualty & Surety Company, et al., Appellees,* to the end that this cause may be reviewed and determined by this Court as provided by the Statutes of the United States; and that the judgment herein of said United States Circuit Court of Appeals for the Sixth Circuit be reversed by this Court, and that petitioners may have such further relief as to this Court may seem proper.

AETNA CASUALTY & SURETY COMPANY,
J. A. JONES CONSTRUCTION COMPANY,
By CLYDE W. KEY,
Their Attorney.

CLYDE W. KEY,
1408 Bank of Knoxville Building,
Knoxville, Tennessee,
Counsel for Petitioners.

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1946

No. 432

AETNA CASUALTY & SURETY COMPANY AND J. A. JONES CONSTRUCTION COMPANY,

Petitioners.

vs.

MRS. FANNIE M. FLOWERS.

BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

I

Opinions of Courts Below

The only published opinion of the Courts below is that of the United States Circuit Court of Appeals for the Sixth Circuit, found at *154 Federal (2d), 881.*

II

Jurisdiction

The date of the decision of the United States Circuit Court of Appeals for the Sixth Circuit, sought to be reviewed, is

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NOTE: All emphasizing type in this brief is ours, unless otherwise indicated.

April 17, 1946 (R. 19). A petition to rehear was seasonably filed (R. 37), and was denied June 17, 1946, and the petition for writ of certiorari has been filed within the time provided by statute.

The statutory provision which is believed to sustain the jurisdiction of this Court is *28 U. S. C., Section 347.*

The decision sought to be reviewed orders a remand to the State Court of a suit theretofore removed by the defendants to the United States District Court on account of diversity of citizenship, and in *Gay* v. *Ruff*, 292 U. S. 25, this Court held such a decision to be reviewable by this Court upon writ of certiorari.

III

Statement of the Case

This suit was commenced May 24, 1945, by the filing by respondent of a petition in the Chancery Court of Hawkins County, Tennessee, seeking to recover under the Tennessee Workmen's Compensation Act for the death of her husband, the defendants being the husband's employer and its Workmen's Compensation Insurance carrier. The petition sought a recovery in behalf of respondent and her minor children of "the maximum sum allowed under the law, which sum is less than 60% of his weekly average wages, and that she recover the burial expenses in the sum fixed under the statute * * *" (R. 4).

The petition alleged "that 60% of his average weekly wages over the statutory period of payment is in excess of $5000.00 which she is permitted to recover, and for this reason she sues in her own right and on behalf of her said minor children for said sum, together with the statutory burial fund allowed" (R. 3).

Petitioners in due season filed their petition for the removal of the suit to the United States District Court,

alleging that they are foreign corporations, and that the amount in controversy exceeded $3000.00 (R. 8-9). Removal was ordered by the State Court (R. 9).

In the District Court petitioners filed a motion to dismiss for improper venue (R. 10), which motion was sustained (R. 12, 13).

Respondent perfected an appeal to the United States Circuit Court of Appeals for the Sixth Circuit, and that Court reversed the judgment of the District Court and ordered the cause remanded to the State Court upon the sole ground that the amount in controversy did not exceed $3000.00, and that on this account the District Court lacked jurisdiction.

IV

Specification of Errors

The United States Circuit Court of Appeals for the Sixth Circuit erred in holding that the District Court lacked jurisdiction of this cause, and that this cause had been improperly removed thereto, this holding being erroneously predicated upon the ground that the requisite jurisdictional amount was not involved.

V

ARGUMENT

Summary of Argument

Point One: Under the uniform construction of the Tennessee Workmen's Compensation Act, by all of the Courts of the State, there are *involved* in a suit under the Act not only the installments of compensation which have accrued at the time of the filing of the suit, but also all installments that might thereafter accrue. A judgment in favor of a claimant invariably embraces both past due and future

installments. Therefore, both must be taken into consideration in determining the jurisdictional amount.

Tennessee Code Sections 6885, 6890, 6891, 6893;
Southern Railway Company v. *Grigsby*, 155 Tenn. 285, 292 S. W. 3;
Central Franklin Process Company v. *Gann*, 175 Tenn. 267, 133 S. W. (2d) 503;
Diamond Coal Mining Co. v. *Curnutt*, 179 Tenn. 278, 165 S. W. (2d) 575;
Riley v. *Knoxville Iron Company*, 178 Tenn. 107, 156 S. W. (2d) 398.

Point Two: The decision here sought to be reviewed is in conflict with former decisions of this Court.

Thompson v. *Thompson*, 226 U. S. 551;
Brotherhood of Locomotive Firemen & Enginemen v. *Pinkston*, 293 U. S. 98;
Schunk v. *Moline, etc., Company*, 147 U. S. 499;
Wetmore v. *Rymer*, 169 U. S. 115.

Point One

The Workmen's Compensation Act of Tennessee was adopted in 1919. Unlike most such Acts, it is administered by the Courts rather than by an Administrative Commission.

Section 6885 of the Code of Tennessee regulates the procedure. This section, which is reproduced in the Appendix, provides in substance that in case of a dispute over or failure to agree upon compensation, either the employer or the claimant "*may submit the entire matter for determination to the Judge* . . . *and such Judge* . . . *is hereby vested with jurisdiction to hear and determine the issues and render judgment and enforce the same in the same manner as courts of record render and enforce judgments.*"

Section 6890 of the Code provides that, with the consent of the Circuit Court, the amounts of compensation payable periodically may be commuted to one or more lump-sum payments.

Section 6891 of the Code provides in substance that where the amount "paid or to be paid in settlement *or by award* does not exceed the compensation for six months' disability," the award shall be final and not subject to readjustment.

Section 6893 of the Code provides in part as follows:

> "Any time after the amount of any award has been agreed upon by the parties, or found and ordered by the Court, a sum equal to the present value of all future installments of compensation calculated on a six per cent basis, may * * * be paid by the employer to any savings bank or trust company of this State * * * and such sum, together with all interest thereon, shall be held in trust for the employee or the dependents of the employee, who shall have no further recourse against the employer."

In applying these provisions of the Act, all of the Courts of Tennessee, including the Court of last resort, have construed the language of Code Section 6885 to the effect that the parties "may submit the *entire matter* for determination", as conferring jurisdiction upon the courts to adjudge in one single suit the entire and ultimate rights and liabilities of the parties. Invariably the judgment embraces both past due and future installments of compensation.

This fact is illustrated by the case of *Central Franklin Process Company* v. *Gann*, 175 Tenn. 267. In that case the trial Court made an award of compensation in favor of a disabled employee. This award was affirmed by the Supreme Court of Tennessee. That Court described the judgment it was affirming in this language:

> "It was further held that petitioner was permanently and totally disabled within the meaning of the Compen-

sation Act, and she was awarded compensation at the rate of $6.58 for four hundred weeks, and at $5.00 per week for an additional one hundred and fifty weeks, this recovery to be credited by the payments theretofore made."

Central Franklin Process Co. v. *Gann, supra*, p. 276.

We have picked at random three Workmen's Compensation cases decided by the Supreme Court of Tennessee in favor of the claimant, and to illustrate the form of the judgments entered in these cases by the Court, we quote excerpts from these judgments.

In Southern Railway Company v. *Grigsby* (1927), 155 Tenn. 285, where there was an award in favor of the employee's widow, the minute entry (Supreme Court Minute Book 1926, page 181) provides:

"It is further ordered and decreed that the plaintiff, Daisy L. Grigsby, for the use of herself and her said minor children, is lawfully entitled to collect from the defendant Southern Railway Company the further sum of $11.00 per week for the period of 122 weeks from and after March 30, 1927, these payments to be made on the 1st and 15th of each calendar month, provided that during said period she, the said Daisy L. Grigsby, shall live and remain unmarried * * *."

In *Riley* v. *Knoxville Iron Company* (1941), 178 Tenn. 107 (Minute Book 1942, page 85), the minute entry provides:

"It is further ordered, adjudged and decreed by the Court that appellant * * * have and recover from said appellees * * * the sum of $5.00 per week from May 26, 1940, during his dependency, not exceeding 400 weeks * * *."

In *Diamond Coal Mining Company* v. *Carnutt*, 179 Tenn. 278, the minute entry (Minute Book 1942, page 67) provides:

"It is further the judgment of the Court that Fannie C. Carnutt have and recover 8⅓% of the average

weekly wages of William Curnutt for a period of 400 weeks, being from the date of his death, May 22, 1941, and subject to termination as provided in said law, and for the purpose of such payments this case is remanded to the Circuit Court of Anderson County to the end that the payments be made at the end of each month into the hands of the Clerk of said Court."

Since the "amount in controversy" is the amount for which the Court *may* render judgment, and since the Courts of Tennessee have uniformly construed the statute in question as authorizing the rendition of judgment for both past due and future installments of compensation, it seems clear that such construction is binding upon the Federal Courts, and that both amounts must be considered in determining whether the Federal Courts have jurisdiction.

Point Two

In *Wetmore* v. *Rymer*, 169 U. S. 115, it was held that a suit cannot be properly dismissed on the ground that the subject matter is of less value than the jurisdictional amount, "unless the facts on which the persuasion is based, when made distinctly to appear on the record, create a legal certainty of the conclusion based on them. Nothing less than this is meant by the Statute when it provides that the failure of its jurisdiction on this account 'shall appear to the satisfaction of said Circuit Court.'"

In the *Thompson* case, *supra*, the Supreme Court of the District of Columbia made an award in favor of the wife in a suit for maintenance, the award being payable $75.00 per month. The Court of Appeals of the District reversed, and the wife perfected an appeal to this Court. The question was there made that the required jurisdictional amount of $5000.00 was not present, since that amount had not yet accrued. In upholding its jurisdiction, the Court said:

"The present appeal is based upon Section 8 of the Act of February 9, 1893, to establish a Court of Ap-

peals for the District of Columbia * * * which section gives a writ of error or appeal to review in this Court any final judgment or decree of the Court of Appeals 'in all causes in which the matter in dispute, exclusive of costs, shall exceed the sum of five thousand dollars'. Appellee challenges our jurisdiction on the ground that the matter here in dispute does not exceed the sum mentioned.

"Under the decree of the Supreme Court the payments of $75.00 per month for support of the wife and child were to commence on July 15, 1909. Supposing that decree to be now reinstated by a reversal of the decree of the Court of Appeals, the installments already accrued would amount to considerably more than one-half of the jurisdictional amount. The expectancy of life of the parties is clearly sufficient to make up the balance.

"It is true that the obligation to make such payments for maintenance in the future, even when fixed by judicial decree, is not in the nature of a technical debt.

* * * * * * *

"The statutory maintenance is thus assimilated to alimony, in that it is subject to be modified from time to time, or even cut off entirely, in the event of a change in the circumstances of the parties; and it of course ceases wholly upon the death of the husband. (Citing cases.)

"Nevertheless, such a decree clearly and finally settles the obligation of the husband to contribute to the support of the wife and offspring, and fixes the amount of contributions required for the present to fulfill that obligation. The future payments are not in any proper sense contingent or speculative, although they are subject to be increased, decreased, or even cut off, as just indicated.

"The statute conferring jurisdiction on this Court, while requiring that the matter in dispute shall exceed $5,000.00, does not require that it shall be of such a

nature as to constitute (if the event be favorable) a technical debt of record."
Thompson v. *Thompson*, 226 U. S. 551, 558.

The *Pinkston* case, *supra*, is directly in point and covers every issue upon which this Court has predicated its decision. In that case, the plaintiff, the widow of a deceased member of defendant Brotherhood, was entitled to receive a pension of $30.00 per month during her life, except that in the event of her remarriage, the pension was to cease. The Brotherhood became financially involved, and determined to abolish its Pension Department and to make a lump sum settlement of not to exceed $1500.00 with each widow on its pension rolls. Plaintiff brought suit in the Federal District Court to protect her rights. That Court held that the requisite jurisdictional amount was not present. In upholding jurisdiction, Mr. Justice Sutherland said:

"The entire fund is nearly $300,000. The bill proceeds on the theory that this constitutes a trust fund, and seeks its administration under judicial orders. Respondent urges that the jurisdiction may well be tested by the value of the whole fund. But we put that question aside, since we are of opinion that the value of respondent's own interest in the fund exceeds the jurisdictional amount.

"This, it will be seen, is not an action at law to recover overdue installments, but a suit in equity to preserve and protect a right to future participation in the fund. If the value of that right exceeds $3,000, the district court has jurisdiction.

"In the Thompson case, a decree had been entered by the Supreme Court of the District of Columbia in favor of a wife against her husband, for support and maintenance at the rate of $75 a month, together with $500 for counsel fees. The decree was reversed by the Court of Appeals of the District. On an appeal to this court, our jurisdiction was challenged upon the ground that a sum in excess of $5,000 was not in-

volved, as the statute at that time required. While the installments already accrued amounted to much less than that, it was held that the expectancy of life of the parties was clearly sufficient to make up the balance, and jurisdiction was upheld. Mr. Justice Pitney, who delivered the opinion, said (p. 560): 'The future payments are not in any proper sense contingent or speculative, although they are subject to be increased, decreased, or even cut off, as just indicated.'

"The situation there and that here fairly cannot be distinguished. The life expectancy of respondent, as shown by the mortality tables, is enough to bring the value of the future pension installments, as of the date of the suit, to a sum much in excess of $3,000; and as to that no point is made. *The jurisdictional defect said to exist is that the payments are to cease in the event of respondent's remarriage; and this condition, petitioners say, makes future payments depend entirely upon the volition of the widow, and whether they may accrue is, therefore, a matter of pure speculation. Indeed, the happening of the event does not depend (if that would matter) upon the widow's volition alone, but equally upon the willingness of another to marry her.* Continuance of payments during the life of the respondent is fixed by contract quite as definitely as continuance of payments for maintenance in the *Thompson* case was fixed by decree, and subject to substantially like conditions subsequent. In the *Thompson* case the payments were subject to be cut off entirely, not only by death but, the court said, 'In the event of a change in the circumstances of the parties.' The same is true here. In no respect are we able to see any difference in principle between the two cases. The occurrence of the specified event which would put an end to the obligation is no more uncertain in the one case than in the other."

Brotherhood of Locomotive Firemen & Enginemen v. *Pinkston*, 293 U. S. 98, 99.

In the *Schunk* case, *supra*, the plaintiff, under a Nebraska Statute, sued upon a series of promissory notes, of which

only $530.09 were past due, together with the further sum of $1664.04 to become due in the future, and sought an attachment upon the ground that the defendant was about to fraudulently convey his property. Suit was commenced in the United State Court upon the ground of diversity of citizenship, and the jurisdiction of that Court was challenged because the required jurisdictional amount was not present. In upholding jurisdiction, the Court said:

> "It matters not that, by the showing in the petition, part of this sum was not yet due. Plaintiff insisted that it had a right to recover all. That was its claim, and the claim which was disputed by the defendant. Suppose there were no statute in Nebraska like that referred to, and the plaintiff filed a petition exactly like the one before us, excepting that no attachment was asked for, and the right to recover anything was challenged by demurrer, would not the matter in dispute be the amount claimed in the petition? Although there might be a perfect defense to the suit for at least the amount not yet due, yet the fact of a defense, and a good defense, too, would not affect the question as to what was the amount in dispute."
>
> *Schunk* v. *Moline, etc., Company*, 147 U. S. 499, 504.

The *Schunk* case is analogous to the case at bar, in that a statute authorized a judicial determination of the liability of the defendant *in advance of the maturity of plaintiff's claim*. The value of the unmatured part of the claim was taken into consideration in determining the question of jurisdiction. The Tennessee Workmen's Compensation Act has exactly the same effect.

The Circuit Court of Appeals predicated its decision upon the line of life insurance cases, like *Wright* v. *Mutual Life Insurance Company*, 19 Fed. (2d) 117, affirmed 276 U. S. 602, wherein it was held that in a suit to recover past due installments due under a life insurance policy, the fact

that the judgment would have the *collateral effect* of estopping the defendant to deny liability for future installments was not sufficient to justify inclusion of the future installments in making up the required jurisdictional amount. These authorities are not applicable for the reason, as already pointed out, that the effect of a judgment in a Tennessee Workmen's Compensation suit upon future installments is not a *collateral* effect. The judgment itself awards a recovery for future installments, and that judgment is absolutely final, with the sole exception that it may be modified in the event of changed conditions, just as in the *Thompson* case, *supra*.

If the decision under consideration is permitted to stand, then the Federal District Courts can never acquire jurisdiction of a Tennessee Workmen's Compensation suit. The maximum weekly installment recoverable is $18.00. Section 6884 of the Code of Tennessee requires the suit to be brought within one year from the date of injury, and $3000.00 of benefits cannot accrue within that year. This demonstrates the importance of an authoritative determination of this question of jurisdiction.

Conclusion

It is therefore respectfully submitted that this case is one calling for the exercise by this Court of its supervisory powers, by the granting of a writ of certiorari, and thereafter reviewing and reversing the decision of the United States Circuit Court of Appeals for the Sixth Circuit.

Respectfully submitted,

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APPENDIX

Tennessee Code Section 6885—In case of a dispute over or failure to agree upon compensation under this chapter between the employer and employee or the dependents of the employee, either party may submit the entire matter for determination to the Judge or Chairman of the County Court in which the accident occurred, and such Judge or Chairman is hereby vested with jurisdiction to hear and determine the issues and render judgment and enforce the same in the same manner as courts of record render and enforce judgment. The County Judge or Chairman shall have the power to subpoena witnesses, administer oaths and punish witnesses for contempt; and, in short, he shall have such powers in conducting hearings under this chapter as are possessed by the Judges of the Circuit Courts as courts of general jurisdiction. Officers serving process, subpoenas and other papers shall have the same fees now provided by law for such officers in the Magistrates' Courts.

The party invoking the power of said Court shall file a petition setting out the facts on which the claim is based under this chapter. Upon said petition being filed, the Clerk of the County Court shall issue and cause to be served on the defendant named in said petition a summons accompanied by a certified copy of the petition, commanding the defendant to appear and make defense to said petition before the Judge or Chairman of said County Court. Said summons shall be served on the defendant as in other civil cases at least ten days before the time the matter is to be heard. The County Judge or Chairman shall set claims for hearing not more than fifteen days after the filing of the petition unless for good cause shown. The defendant shall file an answer to said petition on or against the day specified in the summons, unless the Court grants further time in which to answer on good cause shown by affidavit. Should the defendant fail to answer the petition within the time prescribed, a judgment pro confesso will be entered against him, and the cause proceeded with ex parte. The Judge or Chairman trying the case shall hear

the evidence offered by either or both parties, and render judgment. Either party dissatisfied with the judgment of the Judge or Chairman may appeal as in other civil cases to the next term of the Circuit Court of the County, where the cause will be heard by the Circuit Judge de novo. The cause shall be heard by the Circuit Judge without a jury, and as other non-jury civil cases are heard in the Circuit Court. Neither party shall have the right to demand a jury. It shall be the duty of the County Judge or Chairman of the County Court, in carrying out the provisions of this chapter, to keep a docket of all claims presented to him for settlement or adjudication, and he shall cause to be entered on a separate minute book a final record of his findings and conclusions in litigated cases, as well as of orders, compromises or settlements made by him. * * * The party filing the petition may, at his option, instead of filing the same before the County Judge or Chairman, file the same as an original petition in either the Circuit, Criminal or Chancery Court of the County in which petitioner resides, or in which the alleged accident happens, in which event summons shall be issued by the Clerk of the Court in which the proceeding is instituted, and shall be returned before said Court within the time provided for proceedings before a County Judge or County Chairman. The issue shall be made in the same manner, and the presiding Judge shall proceed to hear the case as provided in case of appeal from the County Judge or Chairman. Whenever any matter is brought before the County Judge or Chairman, or before any Judge, as provided herein, the said County Judge or Chairman, or any Judge, may, if he so desires, visit the scene of the accident and examine the surroundings.

Any party to the proceedings in the Circuit, Criminal or Chancery Court may, if dissatisfied or aggrieved by the judgment or decree of that Court, pray an appeal in the nature of a writ of error to the Supreme Court, where the cause shall be heard and determined in accordance with the practice governing other appeals in the nature of a writ of error in civil causes.

The trial of all cases under this law shall be expedited by (a) giving all such cases priority over all other cases on the trial docket in the trial Court other than cases involving State revenue; (b) by allowing any case on appeal in the Supreme Court to be, on motion of either party, transferred to the Division where the Supreme Court is then or will next be in session.

Tennessee Code Section 6890—The amounts of compensation payable periodically hereunder may be commuted to one or more lump sum payments. These may be commuted only with the consent of the Circuit Court. In making such commutation, the lump sum payment shall, in the aggregate, amount to a sum equal to the present value of all future installments of compensation calculated on a six per cent basis. No settlement or compromise shall be made except on the terms herein provided.

Tennessee Code Section 6891—All settlements of compensation by agreement of the parties, and all awards of compensation made by the Court, where the amount paid or to be paid in settlement or by award does not exceed the compensation for six months' disability, shall be final and not subject to readjustment.

Tennessee Code Section 6893—Any time after the amount of any award has been agreed upon by the parties, or found and ordered by the Court, a sum equal to the present value of all future installments of compensation calculated on a six per cent basis, may (where death or the nature of the injury renders the amount of future payments certain) by leave of Court, be paid by the employer to any savings bank or trust company of this State, to be approved and designated by the Court, and such sum, together with all interest thereon, shall be held in trust for the employee or the dependents of the employee, who shall have no further recourse against the employer. The payment of such sum by the employer, evidenced by the receipts in duplicate of the Trustee, one of which shall be filed with the Division of Workmen's Compensation, and the other filed with the Clerk of the Circuit Court, shall operate as a satisfaction

of said award as to the employer. Payments from said fund shall be made by the Trustee in the same amount and at the same time as are herein required of the employer until said fund (and) interest shall be exhausted. In the appointment of the Trustee, preference shall be given, in the discretion of the Court, to the choice of the injured employee or the dependent of the deceased employee, as the case may be.

NOTE: The above references are to the Code of Tennessee of 1932.